

In the present invention, the common special technical feature in *all* claims is pressing at not less than 60°C as recited in claims 1 and 24, for example. There may be a lack of unity only if this common technical feature lacks novelty or is obvious. See PCT Gazette page 49, part 1(a).

Unity of invention in the present application is evidenced further by the International Search Report. In particular, *all* claims were searched *and* WO 01/56625 was cited. The standards regarding unity of invention that apply to the International Searching Authority *also* apply to the U.S. Patent Office with respect to this application. Therefore, the unity of invention requirement is fulfilled, and any reliance upon independence or distinctness of the invention is not relevant under the PCT.

In addition, M.P.E.P. §1893.03(d) provides that when making a lack of unity of invention requirement, the examiner *must* "explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group." A group of inventions is considered linked as to form a single general inventive concept when a technical relationship exists among the inventions that involves at least one common or corresponding special technical feature. That common special technical feature is present in *all* of claims 1-18 and 21-24.

The examiner has not provided *proper* reasons why each group lacks unity with each other group specifically describing the unique special technical feature in each group as required in M.P.E.P. §1893.03(d). The examiner contends that the shared technical feature of the present claims does not make a contribution over the prior art, specifically WO 01/56625. This contention is incorrect.

WO '625 discloses (page 31, lines 35-39) pressing a superabsorbent-containing nonwoven at 50°C and 50 bar (i.e., the 7,000 pounds applied load corresponds to a pressure of 50 bar), with the aim of producing a sample for measuring the FSEV value. In contrast, the nonwoven of the present claims is pressed at a temperature of at least 60°C. This leads to differences compared to the material disclosed in WO '625. See, for example, page 2, lines 3-17 of the specification, where various properties of the material according to the instant invention are compared to properties of the material disclosed in WO '625. In each of these tests, the material of the instant invention out performs the material of the WO '625 reference.

In sum, the fibrous material of the present claims is neither anticipated nor rendered obvious by WO '625. This technical feature is shared by all of the claims and makes a contribution over the prior art. The restriction requirement therefore should be withdrawn.

In addition, the material of Group I and the method of step of Group II are very closely related. In other words, the claims of Groups I and II are each directed to a material prepared by pressing at least at 60°C. It is clear therefore that Groups I and II have a common technical feature.

The Office Action fails to indicate whether Groups I, II, and III are classified in different classes or subclasses, but, even if classified differently, the inventions are not independent for the reasons set forth above *and* because the material set forth in claims 1-18, and the process set forth in claim 21, are so closely related that a search for applicants' material claims would necessarily encompass a search for applicants' process claims. In addition, a search for the claims of Group I would necessarily include a search to the claim of Group II, because the two Groups have identical process steps.

Therefore, even if unity of invention arguably is lacking, no evidence exists that a search and examination directed to all claims, and especially to claims 1-18 and 21, would be a *serious burden* on the examiner, as is required by M.P.E.P. §803. ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." and "There must be a serious burden on the examiner if restriction is not required.")

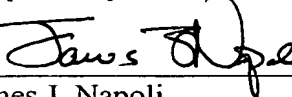
Because search and examination of the entire application can be made without serious burden on the examiner, it would be wasteful of the time, effort, and resources of both the applicants and the Patent Office to prosecute the material, process, and method claims in separate applications. Search and examination of all groups of claims in a single application would be much more efficient than requiring the Patent Office to prosecute the material claims in separate applications. Search and examination of all groups of claims in a single application, and at least claims 1-18 and 21, would be much more efficient than requiring the Patent Office and applicants to do so in separate applications. Accordingly, it is submitted that all claims should be examined at this time.

Reconsideration and withdrawal of the restriction requirement are respectfully requested. An early action of the merits on all claims is solicited.

Dated: October 10, 2006

Respectfully submitted,

By



James J. Napoli

Registration No.: 32,361

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant